

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

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FILE: B-210305

DATE: August 24, 1983

MATTER OF: Robert T. Bolton - Subsistence expenses  
incident to transfer**DIGEST:**

1. Employee who performed travel incident to transfer of duty station was delayed by breakdown of mobile home in which he and his family were traveling. On basis of such delay, he claimed temporary quarters expenses for a 6-day period during which the mobile home was being repaired. Temporary quarters expenses may not be paid since, for the period of actual travel en route to the new station, the employee's rights are limited by 5 U.S.C. § 5724a to an appropriate per diem allowance rather than temporary quarters expenses.
2. Employee's entitlement to travel expenses en route to new station is generally limited to per diem for number of days authorized for travel. However, when employee is delayed en route for reasons acceptable to agency, per diem may be allowed for period of delay. Since employee here was delayed by breakdown of his mobile home residence, he would have had to occupy temporary quarters, pending completion of repairs, even if he had proceeded directly to his new station. Under these circumstances, employee's per diem expenses may be allowed.

The question presented is whether an employee who was delayed en route to his new duty station by the breakdown of his mobile home is entitled to temporary quarters expenses for the period of the delay. We hold that the employee may not be reimbursed for temporary quarters expenses since, for actual travel en route to a new duty station, an employee's rights are limited to an appropriate per diem allowance rather than temporary quarters expenses. However, where the agency determines that an employee was delayed en route for reasons beyond his control or otherwise acceptable to the agency, the employee may be reimbursed for per diem expenses for the period of the delay en route. Since the employee in this case was delayed by the breakdown of the mobile home in

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which he and his family reside, they would have had to occupy temporary quarters, pending completion of repairs on the mobile home, even if they had proceeded directly to the new duty station. Under these circumstances, we believe that per diem expenses may be paid for the period of the delay en route.

This decision is in response to a request from Mr. Ronald L. Carter, an authorized certifying officer with the Department of the Interior in Billings, Montana, concerning the claim of Mr. Robert T. Bolton for temporary quarters expenses incident to his transfer.

Mr. Bolton, an employee of the Bureau of Reclamation, Department of the Interior, was transferred in October 1982 from Pierre, South Dakota, to Hill City, South Dakota, a distance of approximately 194 miles. In connection with this transfer, Mr. Bolton was authorized to move his family, household goods, and mobile home from Pierre to Hill City. The official transfer date was set for October 10, 1982.

Mr. Bolton initially had planned to move his mobile home from Pierre to Hill City in just 1 day, and to have it ready for occupancy in Hill City on the same night. As a result, Mr. Bolton did not request temporary quarters expenses in connection with his transfer, and such expenses therefore were not authorized prior to the date set for his move. Despite the fact that subsistence expenses were neither requested nor authorized in this case, the certifying officer states that such expenses would have been authorized had they been requested.

Mr. Bolton was authorized certain travel expenses in connection with his transfer, including:

"\* \* \* allowances for per diem \* \* \*, certain expenses incurred in connection with real estate transactions and unexpired leases, or transportation of a house trailer for use as a residence and certain miscellaneous expenses."

The time set for the employee's travel, which governs the accompanying per diem allowance for expenses en route, was presumably not to exceed 1 day, given the relative proximity of the old and new duty stations.

The Boltons left Pierre on October 7, 1982. During the journey from Pierre to Hill City, however, the mobile home broke down, in or near Rapid City, South Dakota. Because the mobile home apparently could not be fixed promptly, the family found temporary lodging in Rapid City, and remained there for a period of 6 days. When the repairs on the mobile home were completed, the Boltons left Rapid City for their planned destination, arriving at Hill City on October 14, 1982, at approximately 10:30 a.m.

Mr. Bolton now claims temporary quarters expenses for the period from October 7, 1982, to October 14, 1982, in connection with his transfer. The agency questions the propriety of paying this claim since Mr. Bolton did not request, and was not authorized, temporary quarters expenses prior to the date of his transfer. The agency specifically has asked our Office whether authorization of temporary quarters expenses may be made retroactively, where the agency's initial nonauthorization of temporary quarters expenses did not result from an error or inadvertent omission in the preparation of the employee's travel orders.

The payment of travel, transportation, and relocation expenses of transferred Government employees is authorized under 5 U.S.C. §§ 5724 and 5724a (1976) as implemented by the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR). Section 5724 and section 5724a of Title 5, United States Code, authorize the reimbursement of all or part of certain expenses incurred by an employee who is transferred in the interest of the Government. Among the expenses authorized to be paid are per diem while en route and temporary quarters subsistence expenses of the employee and his immediate family for a period of 30 days.

In connection with 5 U.S.C. § 5724a, section 2-2.2b of the FTR provides in part:

"Per diem allowance when en route between employee's old and new official stations.  
When an employee is transferred, an allowance shall be paid for per diem instead of subsistence expenses incurred by the employee's immediate family while traveling between the

old and new official stations regardless of where the old and new stations are located. If the actual travel involves departure and/or destination points other than the old or new official station, the per diem allowance shall not exceed the amount to which members of the immediate family would have been entitled if they had traveled by usually traveled route between the old and new official stations.

\* \* \*

Thus, under FTR section 2-2.2b, above, for the period of actual travel en route to the new duty station, an employee's right to reimbursement of expenses is specifically limited to an authorized per diem allowance rather than temporary quarters expenses. In this regard, en route travel is generally defined as the period beginning when the employee leaves the old station and ending when he arrives at the new station. Whatever temporary quarters and subsistence expenses are incurred while the employee is en route are covered by an appropriate per diem allowance and not by temporary quarters subsistence expenses.

In this regard, section 2-2.3d(2) of the FTR, as amended in 1977, provides as follows for the maximum per diem allowance when the employee uses a privately owned vehicle:

"(2) Maximum allowance based on total distance. Per diem allowances should be paid on the basis of actual time used to complete the trip, but the allowances may not exceed an amount computed on the basis of a minimum driving distance per day which is prescribed as reasonable by the authorizing official and is not less than an average of 300 miles per calendar day. An exception to the daily minimum driving distance may be made by the agency concerned when travel between the old and new official stations is delayed for reasons clearly beyond the control of the travelers such as acts of God, restrictions by Governmental authorities, or other reasons acceptable to the agency; e.g., a physically handicapped employee. In such cases, per diem may be allowed for the period of the delay or for a shorter period as determined by the

agency. The traveler must provide a statement on his/her reimbursement voucher fully explaining the circumstances which necessitated the en route travel delay. The exception to the daily minimum driving distance requires the approval of the agency's authorizing official." (Emphasis added.)

The above provision prior to 1977 did not specifically provide that agencies could make an exception to the daily minimum driving distance requirement when an employee was delayed en route for reasons beyond his control or acceptable to the agency. Our Office has not yet interpreted the current provision in light of the language which was added in the 1977 amendment allowing agencies to make exceptions. Prior to that amendment, we interpreted the provision as requiring the employee to travel a specified distance each day, that is, an average of 300 miles (or a higher daily mileage rate prescribed by the authorizing official) per calendar day. Since the regulation at that time did not contemplate exceptions to the daily minimum distance requirement, we held in Leroy A. Ellerbrock, B-190149, December 23, 1977, that the regulation did not permit the payment of an increased per diem allowance due to extenuating personal circumstances such as the breakdown of an employee's rental truck en route to the new station. As amended, however, section 2-2.3d(2) of the FTR clearly provides that agencies may make exceptions to the daily minimum driving distance and, therefore, allow additional per diem, when an employee is delayed en route to his new station for reasons beyond his control or otherwise acceptable to the agency. Accordingly, Ellerbrock will no longer be followed where the effective date of the transfer is on or after June 1, 1977.

In this case, Mr. Bolton is not entitled to temporary quarters expenses in connection with his 6-day delay and stopover in Rapid City, since he incurred the stated expenses en route to his new duty station of Hill City. There is no evidence in the record that Mr. Bolton occupied temporary quarters before he began his travel or following arrival at his destination. He occupied temporary quarters only during the period he was en route to Hill City, because of the delay resulting from the breakdown of his mobile home. Even if the agency had authorized temporary quarters expenses for Mr. Bolton prior to his transfer, Mr. Bolton would not have been able to use such expenses to cover his en route travel, since his entitlement to reimbursement for such travel would have been limited under 5 U.S.C. § 5724a

to an appropriate per diem allowance. The certifying officer's question concerning authorization of temporary quarters is answered accordingly.

Although Mr. Bolton is not entitled to temporary quarters expenses, the agency may provide him with a per diem allowance for the period of his delay en route to the new station, pursuant to section 2-2.3d(2) of the FTR. If the agency determines that Mr. Bolton was delayed for reasons which were beyond his control, or are otherwise acceptable to the agency, additional per diem may be allowed to cover the period of delay. There is no evidence in the record to show that Mr. Bolton was responsible for, or had any control over, the breakdown of his mobile home, which resulted in the 6-day delay. Furthermore, since the vehicle which broke down was the actual residence in which Mr. Bolton and his family were living, the family would have been required to occupy temporary quarters while the mobile home was being repaired, whether they had remained in Rapid City or proceeded directly to Mr. Bolton's new station. Under these circumstances, we believe that per diem expenses may be paid for the period of the delay en route.

Accordingly, while there is no legal basis upon which Mr. Bolton may be reimbursed for temporary quarters expenses in connection with his stay in Rapid City, he may be paid per diem expenses for the period of his delay en route to his new duty station.

*for* *Harvey R. Jan Cleave*  
Comptroller General  
of the United States